IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No. 116 of 2004

M/s Reading & Bates Drilling Co.
as agent of Mr. Michael Schmidt
C/o Nangia & Company,
B-57, Soami Nagar,
New Delhi- 110 017 … Appellant

Versus

The Commissioner of Income Tax,
Dehradun. … Respondent

Miss. Krishi Shukla / Dr. Udyog Shukla, Advocates for the appellant.
Mr. S.K.Posti, Advocate for the respondent.

Coram: Hon. Cyriac Joseph, C.J.
Hon. J.C.S. Rawat, J.

JUDGMENT

CYRIAC JOSEPH, C.J. (Oral)

1. This appeal is filed against the order dated 26.03.2004 passed by the Income Tax Appellate Tribunal, Delhi Bench 'F', New Delhi in I.T.A. No. 1522 /Del / 2000. The appellant is the assessee. The dispute relates to the Assessment Year 1997-1998.

2. The substantial questions of law raised in the appeal is as follows:

> Whether on the facts and circumstances of the case, the Tribunal erred in law in holding that the "off period" salary paid to the appellant was liable to tax in India.

3. In Commissioner of Income Tax- and another Vs. Sedco Forex International Drilling Co. Ltd. and connected cases reported in (2003) 264 ITR 320, a Division Bench of this Court held that the payment of salary for "off period" was income earned in India, i.e., for services rendered in India

under Section 9(1)(ii) and that “off period salary” was taxable under section 9(1)(ii) of the Income Tax Act, 1961.

4. Following the above mentioned judgment of a Division Bench of this Court, this appeal is dismissed.

(J.C.S. Rawat, J.) **(Cyriac Joseph, C.J.)**
28.09.2005 **28.09.2005**

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